

## **Statement of Concerns about HB4394 – Michigan Advocacy Project**

My name is Jim Schaafsma. I am here on behalf of the Michigan Advocacy Project, and I am the housing attorney at the Michigan Poverty Law Program, which provides support for legal advocates for Michigan's low-income residents. Thank you for the opportunity to comment on HB4394. This bill is unfair, unnecessary, and would weigh especially heavily on low-income tenants.

Other than purely promoting the interests of landlords at the expense of tenants, it is hard to discern any legitimate public policy purpose of HB4394. This bill would amend Section 11 (MCL 554.611) of Michigan's security deposit law (popularly known as the "Landlord-Tenant Act", "Act") by requiring that tenants provide, by certified or registered mail, notice to the landlord of a forwarding address at which security deposit related communication can be sent. Further, it would remove from the Section 11 language that says not provided a forwarding address will not "prejudice a tenant's subsequent claim for the security deposit."

### **HB4394 is unfair and harmful to tenants.**

Neither the Act or HB4394 prescribe that the notices landlord provide (former) tenants (e.g. notice of itemized list damages, Section 9, MCL 554.609) be sent by certified or registered mail. Nor does the law prejudice the ability of landlords to make claims against a tenant's security deposit when a landlord does not comply with the Act.<sup>1</sup>

So, despite the superior bargaining power, sophistication, and financial resources landlords generally have compared to tenants, if HB4394 is enacted, tenants would be subject to a requirement (complicated certified/registered mailing) and a sanction (possible forfeiture of right to return of security deposit for minor noncompliance with the Act), that landlords are not. Knowing that the security deposit is the tenant's property (see Section 5 of the Act, MCL 554.605) makes the proposed changes only more troubling.

### **HB4394 is unnecessary**

Other than creating an unfair and indefensible impediment to tenant's recovering their security deposits, there is no need for the changes to the security deposit statute that this bill would impose. This bill proposes a solution to a problem that does not exist. It cannot be credibly argued that the current statutory security deposit process is not working well for landlords.

Rather than needlessly tinkering with the security deposit law to the exclusive advantage of landlords, the legislature might consider changes to that law that benefit Michigan residents and their economy generally, such as designating for the Affordable Housing Trust Fund any income that security deposits generate while in the "regulated financial institution" account that landlords must place them in (see Section 4, MCL 554.604)

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<sup>1</sup> The Act does say that if, despite full tenant compliance with the Act, the landlord does not comply with Section 13, MCL 554.613, which concerns landlord court claims against a security deposit, the landlord is "liable to the tenant for double the amount of the security deposit retained."

### **HB4394 weighs especially heavily on low-income tenants**

Of Michigan's nearly 1 million renter households (a little more than  $\frac{1}{4}$  of all households), more than  $\frac{2}{3}$  are low income. Of these households, nearly 40% pay more than 50% of their incomes toward housing costs; for persons in the lowest income category, extremely low income (30% and below median income, \$23,847 for a family of 4 in Michigan), the percentage exceeds  $\frac{2}{3}$ . Affording a 2 bedroom apartment in Michigan takes nearly 2 times the full time minimum wage. (in some areas of the state it's closer to 3 times)<sup>2</sup> So, in a state with many financially stressed families, renter households are especially strapped.

Besides being unnecessary and unfair to tenants generally, HB4394 would be especially burdensome to low income renter households, in time and cost terms. To meet the forwarding address notice requirement of the Act, rather than simply mailing a letter to a landlord, a tenant would need to find time (perhaps at the expense of working) to go to the post office to send a letter by registered or certified mail, and then have to pay at least more than \$5 to do so; to send by registered mail costs at least \$12.56.<sup>3</sup> These numbers may not give us pause, but for a low income family they are significant, especially when remembering that such a cost must be incurred as a condition for getting back their own property. When the huge added cost of not satisfying that condition – probable loss of the security deposit – is considered, there's no escaping the conclusion that HB4394 is especially harsh and penal to low income households.

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<sup>2</sup> Sources: U.S. Census Bureau, Center for Budget and Policy Priorities, U.S. Dept. of HHS, National Low Income Housing Coalition

<sup>3</sup> The certified mail fee is \$2.65; the registered mail fee starts at \$9.50; the return receipt fee is \$2.15; and the first class mail fee to 1 ounce is \$.41. Source: U.S. Postal Service;